GARY D. JOSEPHSON #5299
Assistant Attorney General
SEAN D. REYES #7969
Attorney General
Attorneys for Utah Insurance Department
160 East 300 South, Fifth Floor
PO Box 140874
Salt Lake City, UT 84114

Salt Lake City, UT 84114 Telephone: 801-366-0375

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF UTAH

UTAH INSURANCE DEPARTMENT,

Complainant,

٧.

RICK DEE KENDELL 1363 East 6600 South Ogden, UT 84405 License # 53033

Respondent.

STIPULATION AND ORDER

Docket No. 2015-147 LF

Enf. Case No. 3704

Judge Gregory Soderberg, Esq. Administrative Law Judge

STIPULATION

The Utah Insurance Department ("Department"), by and through its legal counsel, and Rick Dee Kendell ("Respondent"), hereby stipulate and agree as follows:

- Respondent holds a Resident Producer Individual License. Respondent's business address is 1363 East 6600 South, Ogden, UT 84405. Respondent's License Number is 53033.
- 2. The Department has jurisdiction over the parties and subject matter of this administrative action.
 - 3. Respondent acknowledges notice of agency action pursuant to Utah Code §

63G-4-201; acknowledges that this Stipulation and Order is an informal proceeding pursuant to Utah Code Section 63G-4-202; and irrevocably waives the right to any hearing, review or appeal concerning this matter.

- 4. Respondent knows of his right to be represented by legal counsel and waives this right by either having sought the advice of legal counsel or by having voluntarily chosen not to do so.
- 5. This signed Stipulation, along with any Findings of Fact and Conclusions of Law, shall not be subject to any reconsideration, renegotiation, modification, hearing or agency review or appeal.
- 6. The Findings of Fact and Conclusions of Law presented below are accepted by the parties.
- 7. The issuance of the signed and adopted Order proposed below is solely for the purpose of disposing of the specific matter entitled herein.
- 8. The only promises, agreements and understandings that the parties have regarding this matter are contained in this Stipulation.
- 9. Respondent enters into this Stipulation voluntarily, knowingly, and free from any coercion of any kind.
- 10. The persons signing this Stipulation on behalf of the named parties hereby affirm that they are authorized to sign and bind the parties.

Dated this 21 day of NECEMBER, 2015.

CICK DEE KENDELL

Dated this 23 day of December, 2015.

Gary D/Josephson,

Assistant Attorney General

UTAH DEPARTMENT OF INSURANCE

Based upon the foregoing Stipulation and Department file, the Presiding Officer makes the following Findings of Fact:

FINDINGS OF FACT

- 1. Respondent holds a Resident Producer Individual License, and was affiliated as an insurance agent with Horizon Financial and Insurance Group, Inc., a general insurance agency for Union Central Life Insurance Company. The insurance agency was owned and operated by Dee Allen Randall.
- 2. Respondent referred his clients to Randall, who offered private placement securities investments in "Horizon Notes," which refers to promissory notes issued by various companies owned and controlled by Randall.
- 3. The Horizon entities operated under a plan whereby investor monies were routinely comingled and transferred among the various Horizon entities. Of the investors solicited by Respondent, at least ninety-two (92) individuals invested a total of approximately \$9,871,000.
- 4. None of the notes were sold through a licensed broker-dealer. Also, at no relevant time were the notes registered with the Utah Division of Securities or the Federal Security and Exchange Commission; nor were they exempt from registration requirements under

state or federal law.

- 5. On August 27, 2015, Respondent entered into a Consent Order with the Utah Division of Securities wherein he will not seek licensure by the Utah Division of Securities as a broker-dealer agent, investment advisor, representative, or licensing as an agent for any issuer soliciting investor funds in the State of Utah at any time in the future. The consent Order also required Respondent to pay \$75,000 to the Utah Division of Securities.
- 6. Based on a subsequent investigation by the Utah Insurance Department, on November 30, 2015, Respondent agreed to the Department's recommendation of probation for the period of 24 months, to include periodic reviews of Respondent's business practices.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

CONCLUSIONS OF LAW

- 1. Utah Code Section 31A-23a-111 grants authority to the commissioner to revoke, suspend, terminate, limit, or take other actions against a Respondent for cause.
- 2. The proposed twenty-four (24) month probation of Respondent with periodic reviews of his business activities is appropriate under the circumstances

Based upon the foregoing Stipulation, Findings of Fact and Conclusions of Law, the Presiding Officer herewith enters the following Order:

<u>ORDER</u>

IT IS HEREBY ORDERED:

Respondent Rick Dee Kendell is hereby placed on probation for a period of 24 months commencing on the date this Order is signed.

2. The terms of probation are that (a) Respondent shall commit no further violations of Utah insurance laws; and (b) Respondent's current supervisor, Shaun Meyers, shall conduct quarterly reviews of Respondent's business activities and make quarterly reports to the Department.

DATED this 29th day of December, 2015.

TODD E. KISER Insurance Commissioner

GREGORY SODERBERG, ESQ. Administrative Law Judge Utah Department of Insurance State Office Building, Room 3110 Salt Lake City, UT 84114 Telephone (801) 538-3800

NOTIFICATION TO RESPONDENT

You are hereby notified that a failure to obey an Order of the Commissioner may subject you to further penalties, including forfeitures of up to \$5,000 per violation and the suspension or revocation of your license and the filing of an action in district court, which may impose forfeitures of up to \$10,000 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

CERTIFICATE OF MAILING

The undersigned hereby certifies that on this date, a true and correct copy of the STIPULATION AND ORDER was mailed, postage prepaid, to the following:

RICK DEE KENDELL 1363 EAST 6600 SOUTH OGDEN, UT 84405

Dated this 19th day of Secenther, 2015.

LINDA HARDY

UTAH INSURANCE DEPARTMENT STATE OFFICE BUILDING, ROOM 3110 SALT LAKE CITY, UT 84114-6901